S.B. CIVIL MISC. APPEAL NO. 815/2006
(Smt. Kesari Devi & ors. Vs. Devji Bhai & others)

DATED :05.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.S.K.Sankhla for the appellants.

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By way of this appeal the claimant-appellants seek to challenge the award dated 30.11.2005 made by the Motor Accident Claims Tribunal, Sojat in Claim Case No. 44/2002; and seek enhancement over the compensation of Rs.2,17,800/- awarded by the Tribunal on account of accidental death of Chola Ram, husband of appellant No.1, father of appellants No.2 to 6 and son of appellant No.7.

Brief relevant facts are that the deceased Chola Ram and Shravan Lal were riding on their vehicle M-80 at Sojat to Chandwal Road on 23.04.2002 at about 10.45 PM when they were hit by an oncoming truck bearing Registration No. GJ 8U 1582 and both of them died because of the injuries sustained in the accident. The trial of two claim cases made by the dependents of the deceased being Claim Case Nos.44/2002 and 45/2002 was consolidated by the Tribunal and both the claim cases have been decided together by the impugned award.

In relation to claim case No.44/2002 the present appellants claimed compensation on account of death of Chola Ram stating his age at 56 years, being engaged in agriculture and labour and his income at Rs.6000/- per month.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid truck and held the respondents liable for compensation. While taking up quantification of compensation, the Tribunal found that no proper evidence was adduced in relation to the income of the deceased and in the overall circumstances took the loss of income for the claimants at Rs.1800/- per month and looking to the age of the deceased applied a multiplier of 8 and thereby calculated pecuniary loss at Rs.1,72,800/- but did not consider claimant Nos.2, 3 and 7 to be the dependents on the deceased.. The Tribunal also awarded Rs.5,000/- as funeral expenses and Rs.40,000/- as non-pecuniary compensation towards loss of consortium to the wife and loss of love, affection, guidance and services to the other claimants. The Tribunal has, therefore, made an award of Rs.2,17,800/- in favour of the claimants and allowed them interest @ 6% per annum from the date of filing of the claim application.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased and his future prospects, the amount awarded by the Tribunal

remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has seriously erred in awarding interest only @ 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that this appeal remains bereft of substance and deserves to be dismissed.

The deceased was 56 years of age and when no definite proof of income of the deceased has been produced; and the deceased has not been shown in any settled employment the Tribunal cannot be said to be in error in taking a reasonable figure towards loss of contribution for the claimants at Rs.1800/-per month and looking to over all circumstances of the case and the age of the deceased, choice of multiplier of 8 cannot be said to be improper and is rather on the higher side. Reasonable amount towards funeral expenses and non-pecuniary losses have also been awarded. The Tribunal has of course awarded interest only @ 6% per annum but in view of the liberal award made by the Tribunal, such choice of interest cannot be said to be unjustified.

Having regard to overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award cannot be said to be too low or grossly inadequate so as to warrant any interference in appeal.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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